

**VIRGINIA COMMONWEALTH UNIVERSITY/WELLS FARGO BANK, N.A.  
CAMPUS ATM/PIN-BASED DEBIT CARD AGREEMENT**

**THIS AGREEMENT** (the "Agreement") is made and entered into effective as of December 18, 2020 ("Effective Date") by and between the Virginia Commonwealth University (herein "University") and Wells Fargo Bank, National Association (herein "Bank"), referred to collectively hereinafter as the "parties."

**RECITALS**

**WHEREAS**, University offers a multi-purpose identification card ("VCU Card") to all enrolled students in good standing and to all faculty and staff (collectively the "Eligible University Community Members") that is used to access a variety of University facilities and on-campus services; and

**WHEREAS**, University and Bank will also enter into a Master Services Agreement (the "MSA") which will be incorporated by reference into this Agreement; and

**WHEREAS**, University desires Bank to provide checking account, ATM, PIN-based debit, and deposit transfer services among other banking and financial services to Eligible University Community Members in association with and accessed through the VCU Card, all as more particularly described herein ("Campus Card Program"); and

**WHEREAS**, Bank seeks to establish new account relationships through its affiliation with University, including but not limited to checking accounts with linked VCU Card (each such checking account referred to herein as a "Wells Fargo Bank Account").

**AGREEMENT**

**NOW, THEREFORE**, for valuable consideration, the parties agree as follows:

1. **Recitals.** The Recitals set forth above are true and correct, are incorporated into this Agreement by reference, and constitute an integral part of the Agreement.
2. **Term and Options to Extend.** The Term of this Agreement shall commence on December 1, 2020 or as of the date indicated by the last to sign as of the time this Agreement is fully executed as shown on the signature page and will terminate on November 30, 2025 ("Termination Date"), unless otherwise terminated as provided in Section 27 (the "Term") or unless both parties elect to renew the Agreement for up to five (5) additional one-year periods. University agrees to give Bank notice by the first day of September 1, 2025 that it desires to extend the Term, and upon mutual agreement the Term may be extended for a one (1) year period. This extension procedure will likewise be applicable with respect to the four additional one-year periods.

- 3. Grant to Use University Name and Marks.** University hereby grants Bank during the Term a non-exclusive, non-assignable, and irrevocable world-wide license to use, display, reproduce, and otherwise exploit the various logos and other identifying property and marks set forth on Exhibit "A" of this Agreement (collectively, the "University Marks") for the sole purpose of offering and promoting the financial products and services to Eligible University Community Members through the Campus Card Program. All applications of the University Marks by the Bank must conform to Exhibit "A," along with any specifications established by the University which specifications may be amended from time to time. Bank will make no other use of the University Marks or any other trademark or tradename owned by or associated with the University without, in each case, University's prior explicit written consent. Bank must deliver all VCU Card designs and all promotional and informational materials prepared by Bank that contain any University Mark to University prior to publication for University's prior written consent which consent will not be unreasonably withheld or unduly delayed. University also grants Bank authority to use published VCU Card marketing materials as examples for prospective Bank clients or within Bank Campus Card Program marketing materials. Such examples will only be used if material has been previously used with the public such as printed brochures, flyers, banners and the like.

Bank acknowledges and agrees that University is the owner of the University Marks, that the limited right hereunder to use the University Marks does not confer upon Bank any right of ownership of the University Marks, and all use of the University Marks by Bank will inure to the benefit of University. Accordingly, Bank's limited right to the use of the University Marks for any purpose is solely by reason of this Agreement, and Bank may not raise or cause to be raised any questions concerning, or objections to the validity of, or the right to the use of, the University Marks or the right of the University thereto, on any grounds whatsoever, or file any application for any mark, or obtain or attempt to obtain ownership of a mark or trade name, in any country of the world, which refers to or is confusingly similar to the University Marks or any mark, design or logo intended to identify the University. Upon expiration or termination of this Agreement for any reason, Bank will immediately cease any and all use of the University Marks or any variation of the University Marks on promotional and informational materials prepared by Bank in connection with this Agreement.

University represents and warrants that to the best of its knowledge, the use of the University Marks will not infringe any intellectual property or any other rights of any third party. If there is any claim against University or Bank that the University Marks or any modifications thereof, as authorized by University, infringe the rights of another party, University will, at its own expense, defend Bank's right to use of the University Marks as authorized under this Agreement as permitted by law. In the event any such claim is resolved adversely to University or Bank, or in the event University agrees to discontinue its use of the subject mark(s) in order to resolve any such claim, which it reserves the right to do in its sole discretion, the University agrees to be responsible to Bank to the extent permitted by Virginia law for any expenses Bank incurs in discontinuing use of the marks and adopting use of alternative non-infringing marks, subject to the limitation of liability set forth in Section 21. University further agrees to be responsible to the extent permitted by Virginia law against any claims made by third parties against Bank arising from Bank's use of the

University Marks, when such usage is in accordance with the terms of this Agreement. Subject to the foregoing, if requested by the University, Bank agrees to immediately discontinue the use of any University Marks where there has been a claim of infringement and the claim has been resolved adversely to University or Bank, or where University agrees to discontinue use of the marks in order to resolve the claim.

4. **Grant to Use Bank Name and Marks.** Bank hereby grants University during the Term a non-exclusive right and license to use the marks set forth on Exhibit "B" of this Agreement (collectively, the "Bank Marks") on all VCU Cards linked to a VCU Bank Account and all promotional and informational materials prepared by University in connection with the VCU Cards under this Agreement. University will make no other use of Bank Marks without Bank's prior written consent. University agrees that all products and/or services offered in connection with the Campus Card Program must be of a nature and quality commensurate with the nature and quality of the University's VCU Card program. University must deliver all VCU Card designs and all promotional and informational materials prepared by University that contain any Bank Mark to Bank prior to publication for Bank's prior written consent.

University acknowledges and agrees that Bank is the owner of the Bank Marks, that the limited right hereunder to use the Bank Marks does not confer upon University any license or right of ownership of the Bank Marks and all use of the Bank Marks will inure to the benefit of Bank. Accordingly, University's limited right to use of the Bank Marks for any purpose is solely by reason of this Agreement, and upon expiration or termination of this Agreement for any reason, University will immediately cease any and all use of the Bank Marks or any variation of the Bank Marks on VCU Cards issued after the effective date of such expiration or termination.

Bank represents and warrants that the use of the Bank Marks will not infringe any intellectual property or any other rights of any third party. If there is any claim against Bank or University that the Bank Marks or any modifications thereof, as authorized by Bank, infringe the rights of another party, Bank will, at its own expense, defend University's right to use of the marks as authorized under this Agreement. In the event any such claim is resolved adversely to Bank or University, or in the event Bank agrees to discontinue its use of the marks in order to resolve any such claim, which it reserves the right to do in its sole discretion, then Bank agrees to indemnify University against any expenses University incurs in discontinuing use of the marks and adopting use of alternative noninfringing marks, subject to the limitation of liability set forth in Section 21. Bank further agrees to indemnify University against all liabilities University incurs to third parties (including, without limitation damage awards obtained by such third parties against University), together with University's reasonable costs of defending against such liabilities (including attorney fees), arising from University's use of the Bank Marks, when such usage is in accordance with the terms of this Agreement. Subject to the foregoing, if requested by Bank, University agrees to immediately discontinue the use of any Bank Marks where there has been a claim of infringement and the claim has been resolved adversely to Bank or University, or where Bank agrees to discontinue use of the marks in order to resolve the claim.

Except as set forth in this section, any change by Bank in the specifications for any of Bank's Marks will apply only to VCU Cards issued or reissued after notice of the change is given to University. University will be permitted to issue VCU Cards using stock which is already on order with the supplier as of the time Bank notifies University of desired changes without regard to the lapse of time between ordering and receipt of the card stock, provided that University determines that such use is needed to permit its VCU Card program to continue without interruption. Notwithstanding any provision of the Agreement to the contrary, if Bank desires to make changes to the Bank Marks or to eliminate the Bank Marks on cards already issued, on order, or in stock with University, Bank will pay all of University's costs related to such changes. University will not be obligated to reissue VCU Cards with new Bank Marks solely because Bank assigns this Agreement, merges with another institution, changes its name, or is purchased by another entity, or upon expiration or termination of this Agreement.

## 5. Royalties to University.

a. In consideration of the license and grant of rights from the University given to the Bank and more particularly described in the balance of this Agreement, Bank will make royalty payments to the University as follows:

- i. **Initial Signing Bonus.** Bank will pay \$300,000.00 within sixty (60) days of the commencement of this Agreement ("Initial Signing Bonus").
- ii. **Account Royalty Payment.** Bank will pay University for each eligible Wells Fargo Bank Account linked to the VCU Card for the purpose of ATM/PIN-based debit functionality and owned by an Eligible University Community Member.

The number of University Wells Fargo Bank Accounts, for purposes of the Account Royalty computation, will be determined by Bank, based upon the number of eligible Wells Fargo Bank Accounts which have a linked VCU Card. Bank will use discrete product and customer identification and will only pay University for one linked Wells Fargo Bank Account per Eligible University Community Member. To be considered for payment, the Wells Fargo Bank Accounts must be in good standing, funded and owned by an Eligible University Community Member at the time annual computation is computed. Bank will determine computation in conjunction with University provided total enrollment of Eligible University Community Members for the applicable academic school year (e.g., enrolled students).

The annual account royalty payment will be based on the number of eligible Wells Fargo Bank Accounts linked to VCU Cards as a percentage of total student enrollments for the academic school year. Eligible checking accounts linked to a VCU Card held by faculty and staff will be included in the numerator of the percentage calculation but not the denominator. Accordingly, faculty and staff are not included in total student enrollment figure.

The annual account royalty payment will be calculated based on the following:

<b>Weighted Campus Card Program</b>	
<b><i>Percentage of Student Enrollment Linked to a Wells Fargo Bank Account</i></b>	<b><i>Annual Royalty Payment Based on Linked Wells Fargo Bank Accounts</i></b>
Penetration (% min requirement)	Annual Royalty Amount
0%-14.9%	\$100,000.00
15%-24.9%	\$150,000.00
25%-39.9%	\$200,000.00
40%-59.9%	\$250,000.00
60%-79.9%	\$300,000.00
80%-100%	\$500,000.00

Payments described in this Section 5 will be deemed paid upon receipt by the University at the following address: Box 843031, 924 W. Franklin St., Richmond, VA 23284-3031

**b. Royalty Payment Timeframes.**

- i. **Initial Signing Bonus.** The Initial Signing Bonus to University of \$300,000.00 will be within sixty (60) days of the date the Agreement commences (i.e., payment anticipated to be made by February 1, 2021).
- ii. **Annual Royalty Payments.** The payment information is expected as follows:
  - The account royalty payment will be calculated annually in October (based on September month-end data), starting in October of the calendar year 2021, to ensure accurate payment has been made to University.
  - Annual account royalty payments, based on number of linked VCU Bank Accounts, will be calculated from the reported total enrollment of Eligible University Community Members (e.g., enrolled students) received from University as of the current academic year's Fall semester as of the last week of September and provided to Bank in October.
  - In the event the Agreement terminates with less than a 12-month period for calculation purposes, the final annual account royalty payment will be prorated accordingly.

Accordingly,

- the Initial Signing Bonus will be paid sixty (60) days from the execution date of the Agreement.

- the first account royalty payment based on penetration (see chart above) would be calculated in **October 2021**.
- the account royalty payment would be made within 60 days of receipt of invoice (e.g., **December 2021**).

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**7. Wells Fargo Bank Account.** During the Term, Bank will provide, in accordance with this Section 7, a checking account linked to the VCU Card for VCU Card holders who have requested such an account and who meet Bank's usual checking account opening underwriting and other requirements, including without limitation a minimum opening deposit of \$25 by the VCU Card holder. Nothing herein prohibits Bank from closing any Wells Fargo Bank Account in accordance with standard deposit account procedures. A "linked" checking account is defined as a Wells Fargo Bank Account which has a VCU Card linked to it within the Bank's system, for the purpose of ATM and PIN-based debit purchase functionality.

- a. Some VCU Card holders may not be eligible for the Wells Fargo Bank Account due to prior negative banking history, or other account opening requirements as Bank may establish from time to time in accordance with applicable law or Bank policy.
- b. Only one checking account per VCU Card holder may be considered to be a Wells Fargo Bank Account.
- c. Enrolled students may choose the *Wells Fargo Everyday Checking* account, or other product offered by Bank, to which a VCU Card may be linked. Faculty and staff may select any checking account or package for which they may be eligible to which a VCU Card may be linked.
- d. The Wells Fargo Bank Accounts will be subject to the same terms and conditions (including funds availability) as the terms and conditions generally applicable to accounts of Bank's other customers of the same class, as amended from time to time, except as otherwise expressly provided in this Section 7 of this Agreement.
- e. The VCU Card can be linked as an access device (e.g., for ATM transactions at ATMs that accept PLUS, Star, and Pulse transactions or PIN-based purchases at merchants where Interlink or Maestro cards are accepted) to a Wells Fargo Bank Account.
- f. During the Term, should University decide to process student financial aid refund payments by electronic means, Bank agrees to accept such electronic refund transactions through the ACH System and make these funds available to University students by direct deposit to student's Wells Fargo Bank Account or other depository account maintained by the Bank for the student, all without additional deposit-related processing charges or fees to the student.

- g. Upon request, Bank will provide at its own expense an informational web page, maintained by Bank on its website, with a customized URL residing on the University website, dedicated to the Campus Card Program and the VCU Card holders, using a design and functionality subject to the approval of the University, which approval must not be unreasonably withheld or unduly delayed. Bank will be excused from its failure to perform any obligation under this subsection and will not be responsible for any delay in such performance, to the extent that such failure or delay is due to the failure of University to provide any required approval. The website will provide information, as mutually agreed by University and Bank, which may include the following features:
- i Information about various account offerings for VCU Card holders,
  - ii Information regarding how to report lost/stolen cards including the 24/7 toll-free customer service phone number,
  - iii Link to log-in for secure online banking session, and
  - iv Information about and links to other Bank related products and services.
- h. University acknowledges that Bank reviews and revises the terms, conditions, and pricing generally applicable to its deposit accounts from time to time, and agrees that nothing in this Agreement prohibits Bank from making the same changes to the Wells Fargo Bank Accounts owned by Eligible University Community Members that it makes generally to all of its account holder agreements.

- 8. Wells Fargo Bank Account Opening.** The Wells Fargo Bank Accounts may be opened by Bank using Bank personnel anywhere permitted by applicable law and regulations; provided however, that University reserves the right to determine where, on the University's premises, such accounts may be opened. Bank will make its personnel available when agreed to by the parties, at dates, times and places to be agreed upon by the parties, for the purpose of accepting Wells Fargo Bank Account applications from VCU Card holders. Bank may accept deposits to Card Bank Accounts anywhere and by any means permitted by law, including without limitation Bank's offices, mobile branches and messengers, and automated teller machines ("ATMs") or other electronic means of accepting deposits.

Bank is responsible for obtaining information from the VCU Card holder in connection with the Wells Fargo Bank Account opening. University will not have authority or responsibility to open any accounts or accept any deposits on behalf of Bank.

Bank has the right to refuse to open a Wells Fargo Bank Account. Bank personnel will provide support for the implementation of the financial services associated with the Campus Card Program, including the opening of checking accounts for Eligible University Community Members. Additional Bank personnel will be available and assigned as reasonably needed and as mutually agreed upon to support Wells Fargo Bank Account services during peak activity times, such as the initial re-carding process and first year student orientations.

**9. VCU Card Design and Specifications.** The VCU Card that can be linked to a Wells Fargo Bank Account will conform to the following specifications. The front side of the VCU Card will include the University Mark, and design mutually selected by the parties to differentiate the card from other CR80 size cards. The front side must have these minimum requirements:

- a. an electronically stored photo of the VCU Card holder,
- b. the VCU Card holder's relationship to University (faculty, staff, student),
- c. 16-digit ISO number printed on the card;
- d. the VCU Card holder's first and last name, and
- e. Wells Fargo logo.

The reverse side of the new VCU Card must have these minimum requirements:

- i One dedicated magnetic two-track strip encoded to conform with ISO 7812 and 7813 Standards, with the new 16-digit ISO number encoded in track two for banking use
- ii Wells Fargo logo,
- iii the appropriate ATM network "bugs" as follows:  
Plus: 15mm wide X 8.25mm high
- iv Visa required language: "ATM and purchase capability requires a linked deposit account." This copy must appear:
  - Near the Plus Mark
  - In at least 4-point Helvetica type font
- v Instructions for reporting lost or stolen cards.

The VCU Card will include such design and functionality as is necessary to provide reasonably such University benefits as University may request, such as access pass to University facilities and University provided financial services.

University is responsible for any costs associated with the new design of the VCU Card. While University must cooperate with Bank to create a VCU Card design with the intention of maximizing market potential and having an otherwise attractive appearance, University retains the right to disapprove Bank's design when it finds the design adversely impacts the professional image or reputation of University or to be otherwise disadvantageous to University. Notwithstanding anything in this Agreement to the contrary, any provision contained in this Agreement regarding the design and/or specifications of the VCU Card are subject to approval by Bank, any applicable card association rules and regulations (such as, without limitation, Visa, MasterCard and/or ATM networks) and subject to any other applicable law, rules or orders. No additional marks or logos may be placed on the VCU Card without prior Bank approval.

It is the University's responsibility to conduct a trademark/service mark search of any new campus VCU Card (and logo if applicable).

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- 11. Changes to the VCU Card.** University reserves the right to make alterations within a mutually agreed upon time to the Campus Card Program which may require re-issuance of cards, in which case University would be responsible for out-of-pocket and other expenses directly associated with the re-issuance, provided that Bank will dedicate the number of staff necessary to implement and maintain Bank's financial services throughout any re-issuance effort. University agrees that said changes will not diminish the financial services provided by Bank through the Campus Card Program and will notify Bank of proposed alterations within a reasonable time prior to making the alterations.
- 12. Matters Relating to Lost or Stolen Cards; Fraudulent Use.** Should a VCU Card be lost or stolen, the Bank will provide for a system to immediately disable, upon notification of the loss or theft, the VCU Card's capability for processing transactions through the VCU Bank Account. Bank will provide VCU Card holders, without cost to the University, a toll-free phone number for the purposes of notifying the Bank of lost and stolen VCU Cards. Such system of notification and account disablement will be available twenty-four hours a day, seven days a week. Bank will also respond to lost/stolen card reports made in-person to Bank representatives during regular Bank business hours.

Bank assumes financial liability for transactions conducted with lost or stolen linked VCU Cards in the same manner, pursuant to the same policies and to the same extent as such liability is assumed for Bank's general population of checking account customers located in the state of Virginia.

- 13. Persons No Longer Eligible University Community Members.** Should an individual due to an interruption in an educational program, a separation from employment, or for any other reason cease to qualify for University provided identification benefits of the VCU Card, University will, in accordance with such policies and procedures as it may establish, terminate the functionality of the VCU Card and its University identification benefits. However, University is not required to collect the VCU Card; nor will the VCU Card holder be required to forfeit the VCU Card. Bank may or may not discontinue the services of the Wells Fargo Bank Account of any individual no longer qualifying as an Eligible University Community Member.
- 14. Disposition of Cards Upon Termination.** Upon the termination or expiration of this Agreement for any reason, outstanding VCU Cards actively serving as University's multi-function identification card and displaying the Bank Marks may or may not be replaced by University, at the University's sole discretion. Such outstanding VCU Cards may continue to serve as a University identification card with such University benefits as University may choose, for so long as University desires. Further, upon termination or expiration of this Agreement, Bank must, within a reasonable time thereafter, cease identifying the accounts generated under this Agreement as Wells Fargo Bank Accounts and will use reasonable efforts to transfer access to the accounts from the VCU Cards to alternative access devices at the termination or expiration of this Agreement. The parties agree to cooperate with each other in the transition of operations to any successor to the Campus Card Program described in this Agreement, including but not limited providing such information in such format as is reasonably requested and needed by the parties to accomplish the transition.

**15. ISO Number Ownership.** University is, at all times, the owner of the ISO numbers associated with the VCU Cards issued pursuant to this Agreement.

**16. Vendor Support.** Bank plans to continue its membership in various ATM network associations, POS network associations, and card associations, or any such successor organizations. University has no responsibility for, and no relationship with, third party vendors accepting the VCU Card for ATM, PIN-based debit VCU Card transactions as a result of this Agreement.

**17. Compliance with Applicable Law and Regulations.** The parties hereto agree to comply with all federal, state and local law to the extent that it is applicable to the performance of this Agreement including all laws and regulations related to the providers of the financial services offered by the Bank and all laws and regulations related to the protection and security of any personal information gathered by the Bank, such as the Gramm Leach Bliley Act and the Family Educational Rights and Privacy Act. For purposes of this Agreement, University will be considered the "issuer" of the VCU Card used as the University ID card, except to the extent the VCU Card is used to perform electronic funds transfers to or from any Wells Fargo Bank Account, in which case Bank will be considered the "issuer." Bank will not be responsible to University or any VCU Card holder for any liability arising from University's "issuer" responsibilities. Bank will be considered the "issuer" of the VCU Card as it pertains to electronic funds transfers to or from any Wells Fargo Bank Account and to the performance of any other financial transactions involving a Wells Fargo Bank Account. Bank will be responsible to the VCU Card holder for any unauthorized or erroneous transaction involving the Wells Fargo Bank Account to the extent provided for under federal Regulation E (12 C.F.R. 1005.1, et seq.), to the extent applicable. University will not be responsible to Bank or to any VCU Card holder for any liability arising from Bank's issuer responsibilities or for losses to any Wells Fargo Bank Account; provided however, that nothing herein will exonerate University from any unauthorized or erroneous transactions or losses involving a Wells Fargo Bank Account caused by University. In connection with the direct deposit of guaranteed student loan disbursements and other student financial aid or other University disbursements into the Wells Fargo Bank Accounts, if any, University will comply with all applicable laws and regulations.

**18. Campus Card Program Promotion.**

- a. **Marketing.** Bank and University agree to fully cooperate and work in conjunction to promote the Campus Card Program through various marketing efforts. Both Bank and University will approve the content, timing, and use of all promotional initiatives and marketing/advertising materials related to the services contemplated under this Agreement. In cooperation with Bank, University will promote services provided under this Agreement to Eligible University Community Members through various communication channels available to University. Where mutual agreement or prior approval is required, neither party will unreasonably withhold, or unduly delay, such consent.

- b. **Written Communications.** University will provide Bank with the opportunity to provide information about the Bank financial services associated with the Campus Card Program to students, faculty and staff at the University and new incoming University students, faculty, and staff through various methods, which may include without limitation emails, acceptance and orientation packets, letters, flyers and inserts. All such marketing communications must receive prior approval from the appropriate University department. For all other communications, University and Bank will mutually agree upon direct mail, intra-campus mail, and email communication strategies, and University will send these communications on Bank's behalf. University agrees that such marketing materials will include both the Bank Marks and University Marks. University will provide Bank with the opportunity to include inserts funded by Bank in University mailings to VCU Card holders and new incoming University students, faculty, and staff. All mailings must be mutually agreed on and, where appropriate, approved by the applicable University department and Bank. In addition, University will communicate during new student orientation the Campus Card Program and associated Bank financial services to all parents/guardians and students, and will permit, in a medium acceptable to both University and Bank, the distribution of materials related to Bank and the Campus Card Program at or in conjunction with new hire orientation. The Campus Card Program will be communicated as the students are issued their VCU Card.
- c. **Campus Access.** As mutually agreed, and at no additional cost to Bank, Bank will actively participate in campus student programs, including but not limited to the presence of Bank representatives and presentations at VCU Card Office sponsored orientations, fairs, and similar campus-wide events directed at students and/or faculty and staff, whether in person or virtual. University agrees to cooperate with Bank exclusively in the expansion of financial services available to current and future VCU Card holders including but not limited to the above marketing efforts and "tabling" on campus. At all such events determined throughout the year, and at no additional cost to Bank, University will provide Bank with "preferred access" to campus common-areas and tabling locations or their virtual equivalent. From time to time, and with University's pre-approval of the date and venue, Bank will be permitted to offer financial seminars related to the Campus Card Program, at no additional cost to the Bank. University will also permit Bank to hold campus events, in person and virtual including but not limited to, promotions, and giveaways, provided such events are (i) in compliance with applicable laws, (ii) are limited to locations designated by the University for such activities, (iii) are scheduled through the normal University process for reserving space, and (iv) related to the Campus Card Program.
- d. **Marketing Budget.** Bank will provide the marketing services function for marketing and promotion of the Campus Card Program. Bank estimates that its annual marketing budget for the promotion of the Campus Card Program will be approximately \$10,000.00 annually during the Term of this Agreement. This budget includes funding for annual marketing materials including customized materials that will highlight the banking features of the VCU Card and the benefits of linking it to a Wells Fargo Bank Account.

## 19. Intentionally deleted.

**20. Insurance.** The parties acknowledge and agree that Section 1.K. of the MSA will apply.

**21. Liability.** Bank will exercise reasonable care in providing electronic funds transfer services and other services to VCU Card holders as contemplated under this Agreement, subject to breakdowns, operational failures, unavoidable delays, or similar causes beyond the party's reasonable control.

Bank does not control, and, except as provided in Federal Reserve Board Regulation E and state law to the extent applicable, is not responsible to University for any error, act, or omission with respect to ATMs or POS terminals not owned and operated by Bank.

Bank does not undertake to ensure that VCU Card holders will at all times be able to successfully accomplish transactions with Bank by any electronic means, including but not limited to ATMs, POS terminals, the Internet, or other existing or future technology associated with VCU Cards, VCU Card holders' account numbers or personal identification, or otherwise (herein "Electronic Means"). Transactions cannot be processed during off-line periods. When the computer maintaining the on-line files is off-line or rendered inoperable at any time for maintenance or servicing, or due to mechanical failure, strike, lockout, riots, epidemics, war, acts of terror, governmental regulations or other cause beyond Bank's reasonable control, such that no on-line processing of transactions may be possible, no customer transactions will be processed by Electronic Means and Bank will have no liability as a result. Bank will, however, exercise reasonable care to promptly reinstate service.

**22. Representations and Warranties; Board Approval.** Each party hereby represents and warrants to the other that the party has full right, power and authority to fully perform its obligations under this Agreement, and that it has full right, power and authority to execute and deliver this Agreement, and that the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized and approved by all necessary corporate action required to be taken on the part of the party including, when necessary, approval thereof by the party's Board of Directors or Board of Regents, as applicable. Each party hereby further represents and warrants to the other that this Agreement constitutes a valid and binding obligation of the party enforceable in accordance with its terms except as the same may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting the enforcement of creditors' rights and except as courts of equity may limit certain remedies such as specific performance. Each party further represents and warrants to the other that the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not conflict with, or result in the violation of, any laws or regulations applicable to the party, or of the charter, articles of association or bylaws of a party, or any agreement or other instrument to which the party is subject or by which the party or any of its properties or assets are bound.

**23. Examinations and Audit.** Except to the extent applicable law prohibits such, all records maintained by University pertaining to Bank and its Wells Fargo Bank Account customers and relevant to the performance of this Agreement will be available for examination and audit by Bank and/or its regulators. In addition, University will provide Bank or its duly

authorized representatives with reasonable access to University's records for the purpose of enabling Bank to confirm University's compliance with the terms of this Agreement. All such records may be audited by Bank or its designated representative(s) at any time during University's regular working hours upon reasonable notice. Except to the extent applicable law prohibits such, Bank will provide University or its duly authorized representatives with reasonable access to Bank's records for the purpose of enabling University to confirm Bank's compliance with the terms of this Agreement. All such records may be audited by the University or its designated representative(s) at any time during Bank's regular working hours upon reasonable notice. Each party may require persons obtaining access to its records under this Section 23, as a condition to obtaining access, to execute written confidentiality agreements setting forth the matters as addressed in Section 25.

**24. Exclusivity.** During the term of this Agreement, University will not cause or authorize any University identification card to be used as a device to perform electronic funds transfers to or from an account with a financial institution (including, without limitation, banks, savings banks, savings associations, and credit unions) or as a device for accessing a person's account with a financial institution other than Bank, except as otherwise agreed in writing by Bank. Nothing herein will prevent VCU Card holders from using VCU Cards as stored value cards, declining balance cards or smart cards.

**25. Confidentiality.** University may be provided certain information concerning Bank and/or its affiliates or customers, or other information Bank deems proprietary (including, without limitation, customer account information, customer lists, business plans, data processing programs, and operating manuals), in connection with the transactions contemplated herein. Likewise, Bank may be provided certain information that University deems proprietary or confidential pursuant to the law or University policy. As a condition to being furnished such information by a party (herein the "Confidential Information"), the other party agrees as follows:

- a. Except for Wells Fargo Bank Account application data and Wells Fargo Bank Account transaction information, which is automatically deemed to be Confidential Information of Bank, all information deemed confidential or proprietary by a party will be clearly labeled "Confidential Information" or otherwise identified as "Confidential Information" in writing contemporaneous with furnishing such Confidential Information to the other party.
- b. Each party will use the Confidential Information of the other party solely for the purposes expressly authorized in this Agreement or as may be subsequently authorized by the other party in writing.
- c. Each party will keep the Confidential Information of the other party confidential and (except to the extent required by law or legal process) refrain from disclosing the Confidential Information of the other party to any other person or party or using the Confidential Information of the other party for any purpose not expressly authorized under this Agreement or subsequently authorized by the other party in writing. Each party will be fully responsible for the unauthorized use or disclosure of the Confidential

Information of the other party by any of its officers, directors, employees or other persons under its control.

- d. In the event a party is requested or legally compelled (by subpoena, warrant, legal process or other civil or criminal law, rule or procedure) to produce, disclose, or provide the Confidential Information of the other party, the party will promptly notify the other party of that fact as soon as reasonably possible, except to the extent such notification is prohibited by law.
- e. The parties agree that, to the extent applicable under the provisions of the Bank Service Company Act, they may be subject to examination by the OCC for the services provided in connection with this Agreement. The parties must comply with the applicable requirements of 12 C.F.R. Part 30, and any other applicable law or regulation, by implementing and/or maintaining appropriate measures designed to: (1) ensure the security and confidentiality of Bank's Confidential Information; (2) protect against any anticipated threats or hazards to the security or integrity of such information; and (3) protect against unauthorized access to or use of such information that could result in harm or inconvenience to any Bank customer. These confidentiality and security provisions will survive the termination of this Agreement.
- f. Throughout the Term, Bank agrees to implement and maintain appropriate safeguards, in conformity with applicable federal law and regulations, for all customer information, if any, owned by the University and delivered to the Bank pursuant to this Agreement. The Bank must promptly notify the University, in writing, of each instance of (i) unauthorized access to or use of that customer information that could result in substantial harm or inconvenience to a customer of the University or (ii) unauthorized disclosure, misuse, alteration or other compromise of that customer information.

In addition, Bank's customer lists, including names of Eligible University Community Members who are VCU Card holders and who have Wells Fargo Bank Accounts, are Bank's Confidential Information, for which Bank retains exclusive ownership and right during the Term. Therefore, University would be precluded from using a Bank customer list prepared in connection with or based on Eligible University Community Members' enrollment in the Eligible University Community Members' enrollment in the VCU Card program or use of the VCU Card if such use was for a purpose prohibited by this Section 25; provided, however, that University will not be deemed to be in breach of this Agreement in the event it is legally required (by subpoena, warrant, legal process or other civil or criminal law, rule or procedure) to produce, disclose, or provide such a list, provided it has made reasonable efforts to give Bank the notice required under subsection d., if applicable. University is not precluded from using or disclosing the names of its students, faculty members, staff members or other Eligible University Community Members for any purpose it deems appropriate; though, any personally identifiable information that University discloses to Bank about Eligible University Community Members under this Agreement will be limited to only "directory information" under 34 C.F.R. § 99.3 that is disclosed pursuant to 34 C.F.R. §§ 99.31(a)(11) and 99.37.

Within fifteen (15) days of the expiration or earlier termination of this Agreement, the parties agree to either return if requested, or otherwise destroy, Confidential Information including documents, data and other information provided to each other in connection with this Agreement. Notwithstanding any provision herein to the contrary, Bank is permitted and will retain such University Confidential Information for so long as: (i) is required by law; or (ii) as may be consistent with its normal business practices not to exceed five years, unless otherwise required by law.

**26. Equipment.** University is responsible for providing at its cost any equipment and systems programming necessary to implement the Campus Card Program. Bank is responsible for providing any additional needed data lines and installation at its cost.

**27. Termination.**

- a. This Agreement may be terminated by either party (the “Non-Defaulting Party”) upon notice to the other party (the “Defaulting Party”) following the Defaulting Party’s material breach of any provision of this Agreement and failure to cure such breach within 60 days after written notice describing the breach and the action necessary to cure the breach is given by the Non-Defaulting Party to the Defaulting Party. In the event the Defaulting Party is in good faith unable to cure such material breach within 60 days, it must commence such cure in a commercially reasonable manner and notify the Non-Defaulting Party of such anticipated cure date, which in no event may be later than 120 days from the date of such material breach.
- b. This Agreement may be terminated by either party without notice to the other party in the event a petition in bankruptcy (or similar law providing for the adjustment of debts, debt reorganization or liquidation of the party) is filed by the other party, a petition in bankruptcy (or similar law providing for the adjustment of debts, debt reorganization or liquidation of the party) is filed against the other party and is not dismissed within sixty (60) days, or a conservator or receiver is appointed for the other party or for all or a substantial portion of its assets.
- c. This Agreement may be terminated by either party at any time if: (i) the operation of the Campus Card Program has or threatens to have a material adverse financial impact on Bank or University due to a change in applicable law, regulation, rule or policy applicable to Bank or University or the use of one or more of the VCU Cards in a fraudulent manner or in a way which does not permit Bank or University to recover funds from the user(s) of the VCU Card(s); or (ii) Bank is notified by a regulatory agency, or otherwise becomes aware, that any aspect of the Campus Card Program does not comply with any applicable law, regulation, rule or policy applicable to Bank or University.
- d. This Agreement may be terminated by University upon sixty (60) days’ prior written notice to Bank in the event: (i) University receives excessive complaints from students regarding their Wells Fargo Bank Accounts and Bank and University are not able to reach an agreement as to how to resolve such complaints; or (ii) University determines, based

on its reasonable due diligence, that the fees imposed by Bank on Wells Fargo Bank Accounts are, considered as a whole, clearly not consistent with or are above prevailing market rates for similarly-situated financial accounts, and such determination by University is supported by data based on the relevant market, which must be provided to Bank for review prior to termination.

- e. In the event University terminates the Agreement prior to the Termination Date for any reason other than those stated in subsections a, b, c, or d, or if Bank terminates pursuant to subsection a, b or c, of this Section 27, University agrees to repay to Bank a percentage of the Initial Signing Bonus described in Section 5.a. of this Agreement. The percentage to be repaid by University will be calculated as follows:

<b>Agreement Terminated:</b>	<b>Percentage of Initial Signing Bonus to be Repaid</b>
During the first year of the Term	100%
During the second year of the Term	75%
During the third year of the Term	50%
During the fourth year of the Term	33%
During the last year of the Term	0%

**28. Assignment.** This Agreement may not be assigned by either party in whole or in part, other than by operation of law, without in each event the other party's prior written consent. Any such permitted assignment will not, in any event, release the party from its obligations hereunder. Written consent will not be required for transfers resulting from corporate reorganization, consolidation or name change; however, written notice will be provided as soon as practicable.

**29. Subcontractors.** The parties acknowledge and agree that Section 2.F. of the MSA will apply.

**30. Notices.** Except as otherwise provided in this Agreement, all notices hereunder must be in writing and will be deemed given when delivered, if notice is given in any other manner, to the address of the party designated below or such other address as the party may designate by written notice to the other party. The date of mailing will be deemed to be the date appearing on the postmark.

If to Bank:

Name: Janet Tope  
 Title: Region Bank President  
 Wells Fargo Bank  
 1021 East Cary St  
 Richmond, VA 23219

If to University:

University Treasurer  
 Virginia Commonwealth University  
 924 West Franklin Street, 2<sup>nd</sup> Floor  
 Box 843031  
 Richmond, VA 23284-3076

**31. Amendments and Waiver.** This Agreement may be amended only in writing signed by authorized representatives of both parties. In the event of a default by either party under



this Agreement, any delay, waiver or omission by the other party in exercising its rights under this Agreement or applicable law will not result in a waiver of the party's rights with respect to the same or any subsequent breach by the breaching party.

**32. Governing Law.** The parties acknowledge and agree that section 1.B. of the MSA will apply.

**33. Force Majeure.** The parties acknowledge and agree that section 1.R of the MSA will apply.

**34. Relationship of Parties.** No agency, partnership or joint venture is created by this Agreement. The parties disclaim any intent to form such relationships.

**35. Entire Agreement.** Except as expressly provided herein, this Agreement, the Master Services Agreement, the ATM License Agreement, the RFP, and the Proposal constitute the entire agreement with respect to the transactions contemplated herein and supersedes and is in full substitution for any and all prior agreements and understandings between the parties hereto relating to such transactions. Each party disclaims reliance on any prior oral or written representations or undertakings by the other party in entering into this Agreement unless such representations or undertakings are expressly set forth in this Agreement. Wherever the parties agree to discuss a matter, there will be no implied agreement to agree, nor will any other standard be applied in determining a party's performance that is not expressly set forth in the Agreement. However, University and Bank agree that the provisions of account agreements for Wells Fargo Bank Accounts owned by Eligible University Community Members will govern the Wells Fargo Bank Accounts.

**36. Information System General Security.**

- a. To the extent that the University or its employees are provided access to Bank systems or premises, University and its employees must comply with all Bank security policies, procedures, and standards, as it may promulgate from time to time, including, without limitation, those governing access to data, computer systems, and facilities and governing the removal of property from Bank's premises.
- b. With regard to any computer system owned, controlled, or used by University or any agent or subcontractor of University, which computer system is now or hereafter physically or logically connected to or able to access any computer system owned, controlled, or used by Bank or which is used to store any Bank's software or data, University must comply with all Bank's security policies, procedures, and standards governing or related to the connection or access to Bank's computer systems, as it may promulgate from time to time, so long as University receives notice of such policies, procedures, and standards, and any relevant changes.
- c. In addition, University agrees: (i) not to alter any hardware or software security residing on any Bank's computer system and/or network; and (ii) not to allow unauthorized traffic to pass into Bank's networks. In addition to any other rights Bank may have under this Agreement, Bank may terminate an unauthorized access.

**37. Taxpayer Identification Number.** University must provide Bank with a duly dated and executed certification of taxpayer identification number in the form attached as Exhibit C.

**38. License to Establish Link to Bank Web Site.** University may choose to use the Bank “red box” logo on the University Internet web site as a link to Bank’s Internet web site at wells Fargo.com and has requested Bank’s consent.

Bank hereby grants to University a worldwide, non-exclusive right and license to establish a normal (href) text based link on www.vcu.edu to the [www.wellsfargo.com](http://www.wellsfargo.com) home page for the purpose described in the immediately preceding paragraph; provided, however, that University must not “frame” the Bank web pages inside the University web site. Bank also hereby grants to University a non-exclusive right and license to use the WELLS FARGO “red box” logo (“the Logo”) on the University Internet web site located at www.vcu.edu for the exclusive purpose of linking from www.vcu.edu to [www.wellsfargo.com](http://www.wellsfargo.com). University agrees that nothing herein gives it any right, title or interest in the Logo (except the right to use the Logo in accordance with the terms of this Agreement), that the Logo is the sole property of Bank and that any and all uses by University of the Logo inures solely to the benefit of Bank.

University acknowledges that Bank may terminate the above right to link and the right to use the Logo if the content or structure of the University web pages and/or web site changes unless within ten (10) calendar days after receiving written notice of termination from Bank, University removes the materials to which Bank objects or revises the University web pages and/or site to return to the original format or a format that is acceptable to Bank. If the above right to link and use the Logo is terminated, University agrees to remove the link from the University web page to the Bank web page and cease all use of the Logo within ten (10) calendar days of receiving notice.

University agrees that it will not use any Logo design except the camera-ready or downloadable Logo design provided to University by Bank. Bank may monitor the University use of the Logo on the University web site. University agrees that any University web page featuring banking information must be accompanied by required banking disclosures, including, but not limited to “Wells Fargo Bank, N.A., Member FDIC.” University must deliver all web pages that reference Bank and/or contain the Logo to Bank prior to publication for Bank’s consent.

This license to use Logo is royalty-free. This license to use Logo and any and all rights granted hereunder are personal in nature to University, are non-transferable by University, do not convey any sublicensing rights to University, and will not inure to the benefit of any successor in interest of University. This license to use Logo is binding upon and inures to the benefit of Bank’s successors and assigns. All rights not specifically granted or licensed to University are reserved to Bank.

**39. Student Loan Representation and Warranty.** University and Bank represent and warrant to one another that the pricing and other terms and conditions for the services provided under the Agreement are unrelated to whether the University refers student loans to Bank and to the amount of any such referrals. The parties further represent and warrant that royalty or other payments made by Bank to the University in accordance with the terms described

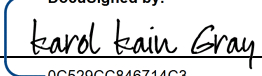
herein are wholly unrelated to student loan activities, volumes, referrals or amount of referrals.

**40. Title IV Representation and Warranty.** University and Bank represent and warrant that Wells Fargo Bank Accounts are not being opened by University on behalf of any Eligible University Community Members, University is not establishing a process Eligible University Community Members follow to open Wells Fargo Bank Accounts, and University is not in any way assisting Eligible University Community Members in opening Wells Fargo Bank Accounts. Further, neither the VCU Card nor the Campus Card Program are being established for the purpose of University’s disbursement of Title IV funds and VCU Cards are not issued by Bank for the specific purpose of receiving Title IV funds.

**41. Counterparts.** This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement. A signed, facsimile copy of this Agreement may serve as an original.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates designated below.

**VIRGINIA COMMONWEALTH UNIVERSITY**

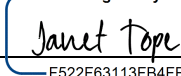
By:  DocuSigned by:  
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Printed Name: Karol Kain Gray

Title: Senior VP & CFO

Date: 12/18/2020

**WELLS FARGO, N.A.**

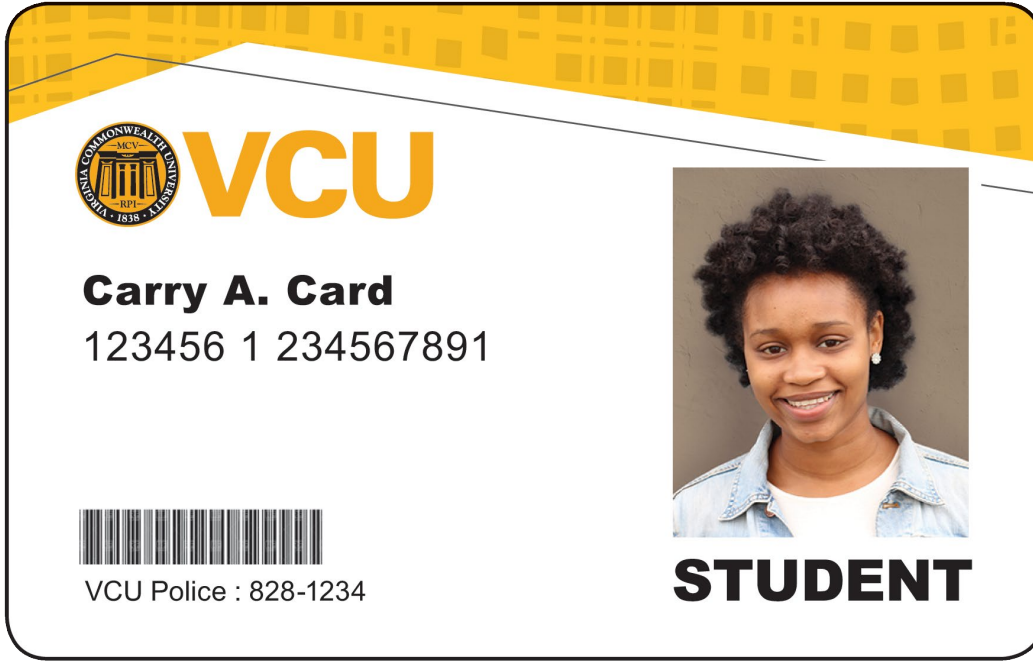
By:  DocuSigned by:  
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Printed Name: Janet Tope

Title: SVP and Region Bank President

Date: 12/8/2020

EXHIBIT A  
UNIVERSITY MARKS



**EXHIBIT B**

**BANK MARKS**



(Black box with white letters)



(Red box with white letters)



(one-line wordmark)